

Patent Application Serial No. 10/584,999

REMARKS

The amendment to claim 1 is supported at page 5, line 6 to page 8, line 12, and in Fig. 4; Fig. 3; and Fig. 5(b). In response to the outstanding Office Action:

(§ 112) Claim 4 is rejected under 35 U.S.C. §112, second paragraph, for “engine.” This rejection is respectfully traversed. The Examiner states that “engine” refers to a mechanical device such as an internal combustion engine or a steam engine; that “engine” is not in the specification; and that “engine” should be replaced with “fuel cell.” However, the Applicants note that the specification at page 3, lines 24-25 and page 12, lines 16-18, states that either a fuel cell or an engine is within the scope of the invention, so that claim 4 is supported in the specification, and also note that claim 4 recites a fuel gas vehicle while claim 1 recites a fuel cell vehicle. Furthermore, the original claims are part of the disclosure, and provide support for themselves. In addition, the rejection is respectfully traversed on the basis that a rejection under the *second* paragraph of § 112 ordinarily does not concern the disclosure.

(§ 103) Claims 1-4 are rejected under 35 U.S.C. §103(a) as being obvious over Guidry et al., US 7,108,091. This rejection is respectfully traversed.

Claim 1. Claim 1 is amended to recite that the release pipe has a portion in a vicinity of the release outlet which is supported on a sub-frame which supports the hydrogen tank, the sub-frame being supported on the left and right mainframes.

The specification at page 11, lines 1-8 describes the following effect of this structure:

Therefore, even when the release pipe 51 and the release outlet 52 are blocked by frozen snow or the like under low temperature conditions, starting the fuel cell vehicle generates heat of the fuel cell stack 38 so as to eliminate blocking of the release pipe 51 and the release outlet 52. As a result, it is possible to effectively prevent the relief valve 50 from not functioning caused by snow or ice even when the fuel cell vehicle is used under the low temperature conditions.

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Other descriptions relating to the Applicants' advantage are found at page 11, lines 12-13; page 11, lines 20-23; and page 12, lines 2-4.

A second advantage is easier assembly, because the hydrogen tank and the release outlet can be installed onto a vehicle body while they are supported on the sub-frame. Furthermore, it is also possible to keep a direction of the release outlet fixed, since the release pipe is supported on a sub-frame, in a vicinity of the release outlet. The Examiner is referred to Fig. 4 and page 9, line 26 to page 10, line 2.

Guidry does not disclose or suggest the feature discussed above. Moreover, no subframe is disclosed. The letters "sub" do not occur in the reference, and none of the disclosed "frames" (2, 7, 11, 14) are a subframe. There is no anticipation of the feature now claimed.

Claim 3. Page 9, line 18 to page 10, line 2, and Fig. 5(b), exemplify this claim. The disclosure clearly indicates the location of the release outlet 52 and the axis C of the hydrogen tanks 29 and 30. The advantage provided by the subject matter are described at page 3, lines 12-15, namely, heating of the release outlet.

Claim 4. The rejection of claim 4 is traversed on the basis of the arguments above.

Claim 5. The Examiner has not examined claim 5, apparently because it was added by Preliminary Amendment. Properly, a new non-final Office Action should be issued.

Obviousness. The Examiner admits that the Applicants' novel feature, which has the novel advantage that it prevents valve freezing, is not disclosed. However, the Examiner asserts that the feature is obvious because the person of ordinary skill would have adopted the arrangement shown in Fig. 21 of Guidry, "in order to increase the space towards the front of the vehicle, which in turn would result in the release outlet being between the tanks and the fuel cell stack" (Office Action at page 3, lines 5-9). Thus, the Examiner is asserting that if the relief valve

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46 of Guidry's Fig. 14 were incorporated into Guidry's Fig. 21 (which does not show a relief valve), such that the fuel cell and the tanks were reversed front-to-back, then the claimed arrangement would result.

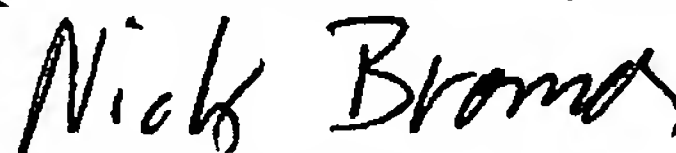
The Examiner bases obviousness on adopting the arrangement of Guidry which is *opposite* to what is here claimed: namely, Fig. 21 rather than Fig. 14. Therefore the rejection is based on modifying the reference *away from* the claims.

Furthermore, the reference itself does not support the Examiner's assertion that reversing the tank and fuel-cell positions would "increase the space towards the front of the vehicle," because the space toward the front is exactly the same in Figs. 14 and 21.

In view of the aforementioned amendments and accompanying remarks, the application is submitted to be in condition for allowance, which action is requested.

Respectfully submitted,

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